



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

JUN 23 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Allen Weh, Chairman
Republican Party of New Mexico
2129 Osuna Rd., N.E.
Albuquerque, NM 87113

RE: MUR 4643

Dear Mr. Weh:

This is in reference to the complaint filed by John Dendahl, former chairman of the Republican Party of New Mexico ("RPNM"), on behalf of RPNM with the Federal Election Commission ("the Commission"). The complaint concerned the Democratic Party of New Mexico's spending on behalf of Friends of Eric Serna for Congress during a 1997 special general election.

After conducting an investigation, the Commission found probable cause to believe that the Democratic Party of New Mexico ("DPNM") violated 2 U.S.C. §§ 434(b), 441a(a)(2)(A), 441a(d)(3), 441b and 11 CFR § 102.5(a)(1)(i), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and the Commission's Regulations. The Commission also found probable cause to believe that Friends of Eric Serna for Congress violated 2 U.S.C. § 441a(f). The Commission was unable to settle the matter through conciliation agreements and therefore, filed a civil suit in United States District Court against the above named respondents. *FEC v. Democratic Party of New Mexico, et al*, Civil Action No. 02-0373 (D.N.M. complaint filed April 2, 2002). The Commission recently resolved the litigation case via a Consent Judgment, requiring DPNM and its treasurer to pay a \$60,000 civil penalty and to transfer \$86,900 from its federal to its non-federal account. The Court adjudged DPNM and the Serna Committee to have violated the Act and enjoined DPNM and the Serna Committee from committing similar violations in the future. A copy of the Consent Judgment is attached.

Earlier in the Enforcement investigation, the Commission had found no reason to believe that the Democratic Republican Independent Voter Education Committee; Fabian Chavez, Jr.; Diane Wood; Joseph Montoya; Tino Monaldo; and Randy Dukes violated the Act. The Commission also took no further action with respect to John Pound, as treasurer of the Serna Committee. The General Counsel's report and Certification memorializing these dispositions are also attached.

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The Commission's consideration of this matter was concluded on April 19, 2005, and the file is now closed. Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 2 U.S.C. § 437g(a)(8). If you have any questions, please contact me at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Bernstein", written in a cursive style.

Jonathan Bernstein
Assistant General Counsel

Enclosures

Consent Judgment
General Counsel's Report
Certification

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COPY

FILED

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW MEXICO

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

APR 29 2005

FEDERAL ELECTION COMMISSION)

Plaintiff,)

v.)

DEMOCRATIC PARTY OF NEW)
MEXICO, et al.,)

Defendants.)

MATTHEW J. DYKMAN
CLERK

Civil No. 02-0372 MCA/RHS

2005 MAY -5 A 9:2

FEDERAL
CLERK
OFFICE OF THE
COUNSEL

ORDER AND JUDGMENT

This action for declaratory, injunctive and other appropriate relief was instituted by the plaintiff Federal Election Commission ("Commission") against defendants Democratic Party of New Mexico ("DPNM") and Judy Baker, in her official capacity as treasurer, and defendant Friends of Eric Serna for Congress ("Serna Committee"), pursuant to the express authority granted the Commission by sections 307(a)(6) and 309(a)(6)(A) of the Federal Election Campaign Act of 1971, as amended ("Act"), codified at 2 U.S.C. 437d(a)(6) and 437g(a)(6)(A). The plaintiff Commission has satisfied all jurisdictional requirements that are prerequisites to the initiation of this suit.

Therefore, it is ORDERED, ADJUDGED AND DECREED that:

- A. Defendants Democratic Party of New Mexico, and Judy Baker, in her official capacity as treasurer, violated 2 U.S.C. 441b(a) and 11 C.F.R. 102.5 by using a non-federal account containing corporate and labor union monies to make disbursements for public communications in connection with the May 13, 1997 special general election in New

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Mexico; violated 2 U.S.C. 441a(a)(2)(A) and 2 U.S.C. 441a(d)(3) by making contributions to, and coordinated expenditures on behalf of, the Serna Committee in excess of the combined statutory limit; and violated 2 U.S.C. 434(b) by failing to report that they had made certain coordinated expenditures on behalf of Eric Serna;

- B. Defendant Friends of Eric Serna for Congress violated 2 U.S.C. 441a(f) by knowingly accepting direct and in-kind contributions from DPNM in excess of the combined statutory limit in connection with the May 13, 1997 special general election in New Mexico;
- C. Defendants Democratic Party of New Mexico, and Judy Baker, in her official capacity as treasurer, are permanently enjoined from using funds contained in a non-Federal account not described in 11 C.F.R. 300.30(b)(2) to make disbursements for communications that urge the public to vote in special elections in which only federal candidates are on the ballot; from making contributions or coordinated expenditures in excess of the combined statutory limit in such elections as provided for under 2 U.S.C. 441a(a)(2)(A) and 2 U.S.C. 441a(d)(3); and from failing to report making coordinated expenditures as required by 2 U.S.C. 434(b) in such elections;
- D. Defendant Friends of Eric Serna for Congress is permanently enjoined from knowingly accepting direct or in-kind contributions in excess of the combined statutory limit in connection with any special federal election in violation of 2 U.S.C. 441a(f);

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- E. Within 30 days from the entry of this Order and Judgment, defendants DPNM and Judy Baker, in her official capacity as treasurer, shall pay a civil penalty of \$60,000 to the Federal Election Commission, for which they will be jointly and severally liable;
- F. Within 30 days from the entry of this Order and Judgment, defendants DPNM and Judy Baker, in her official capacity as treasurer, shall transfer from the DPNM's federal account to the DPNM's non-federal account the sum of \$86,900;
- G. Each side shall bear its own costs and attorney's fees; and
- H. It is hereby ordered that this Court shall retain jurisdiction of this action, and of any ancillary or supplemental actions thereto, in order to, among other things, implement and carry out the terms of all orders, judgments, and decrees that may be entered herein, including those that may be necessary to assure compliance with this Order and Judgment.

The Clerk of the Court is directed to enter this Order and Judgment.

Dated:



M. CHRISTINA ARMIÑO
United States District Judge

Entered:

Clerk of the Court for the
District of New Mexico

Copies to:

Counsel for the Plaintiff:

Harry J. Summers
FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, DC 20463

Counsel for Defendant Friends of Eric Serna for Congress:

John B. Pound
LONG, POUND & KOMER, P.A.
2200 Brothers Road
Santa Fe, New Mexico 87502
(505) 982-8405

Counsel for Defendants Democratic Party of New Mexico and Judy Baker, Treasurer:

Marc E. Elias
PERKINS COIE
607 14th Street, NW
Washington, DC 20005

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